IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.1646 OF 2004
IN
SUIT NO.997 OF 1983

Direndra G. Kotak & Anr. ..Plaintiffs.

V/s.

Rajeshkumar @ Rajas R.Joshi & Ors...Defendants.

And

Vinod Lalchand H. Doshi & Ors. ..Proposed Defendants.

Mr.A.A.Kumbhkoni with Ms.Nutan Moiley i/b D.S. Sakhalkar for Plaintiff.

Ms.A.B.Kapadia i/b Daftary Ferreira & Divan for Defendants 1 to 4.

Ms.Renuka Laxmeshwar, for Defendant No.5A to 5C.

Mr.C.M.Korde i/b Jayashri Manjrekar for defendant No.6.

CORAM: A.M.KHANWILKAR,J

DATE : AUGUST 10, 2005.

P.C. :

1. Heard counsel for the parties.

2. This is an application for bringing on record heirs and legal representatives of the deceased defendant No.5. The application is opposed by the proposed defendants who are the heirs and legal representatives of the defendant No.5. According to them, defendant No.5 has been impleaded in the suit,

only in the capacity of Court Receiver and no relief against defendant No.5 is claimed in the plaint. Counsel for the plaintiff however, contends that defendant No.5 was impleaded not only being court receiver who had executed the suit agreement, but also because he was chairman of defendant No.6, who has subsequently purchased the disputed property.

3. In my opinion, neither the fact that defendant No.5 was court receiver nor was chairman of the defendant No.6 can be the basis to implead the heirs and legal representative of the said defendant, who has since expired.

4. As mentioned earlier, the defendant No.5 has been impleaded in the suit essentially in the capacity of court receiver. If that is so, there is no necessity to bring on record the heirs and legal representatives of the person, who was acting as court receiver.

5. To get over this position, counsel for the plaintiff contends that there are allegations against the defendant No.5 in the suit. Even so, no direct relief is claimed against the defendant No.5, for which, it will be either necessary or proper, for his

heirs and legal representatives to be brought on record. Counsel for the plaintiff then contends that defendant No.5 has been impleaded in the suit also because he incidently happened to be the chairman of the defendant No.6 who subsequently had purchased the disputed property. Even that reason does not commend to me as defendant No.6, is the subsequent purchaser of the disputed property in the suit, therefore, it is not necessary to bring on record heirs and legal representatives of the deceased who is the chairman of defendant No.6, to espouse the cause of defendant No.6.

6. Taking overall view of the matter, persons in the proposed defendant is neither necessary nor appropriate. Hence this chamber summons is rejected.